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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,151	12/18/2001	Roger S. Cubicciotti	031676.0322	7118

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HUNTON & WILLIAMS  
INTELLECTUAL PROPERTY DEPARTMENT  
1900 K STREET, N.W.  
SUITE 1200  
WASHINGTON, DC 20006-1109

[REDACTED] EXAMINER

GRASER, JENNIFER E

ART UNIT	PAPER NUMBER
1645	

DATE MAILED: 03/26/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

**10/020,151**

Applicant(s)

**Cubicciotti**

Examiner

**Jennifer Graser**

Art Unit

**1645**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Prel. Amendt, A, 12/18/01

2a)  This action is FINAL. 2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1, 11, 15, 22, 31, and 43-55 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) \_\_\_\_\_ is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims 1, 11, 15, 22, 31, and 43-55 are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

15)  Notice of References Cited (PTO-892)

18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

19)  Notice of Informal Patent Application (PTO-152)

17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

20)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Election/Restriction***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1, 11, 15, 22 and 31, drawn to pyhcobilisome conjugates, classified in class 435, subclass 317.1.
  - II. Claims 43-46, drawn to an input system for a transducer, classified in class 364, subclass 148.08.
  - III. Claims 47-49, drawn to an optical sensor, classified in class 73, subclass 1.56.
  - IV. Claims 50-54, drawn to a system for processing a light signal, classified in class 702, subclass 32.
  - V. Claim 55, drawn to a binding method, classified in class 435, subclass 7.1.
2. The inventions are distinct, each from the other because of the following reasons:

Groups I-IV contain products which are distinct from one another because they comprise components which are materially distinct. The phycobilisome which is used in dependent claims 46, 49 and 54 of Groups II-IV is structurally distinct from that of Group I in that it is stabilized, isolated or immobilized. The systems of Groups II-IV are functionally distinct, each from the other, (e.g., Group II inputs signal, Group III senses and transfers signal, Group IV processes signal) and therefore it is presumed that the systems are necessarily structurally different from one another to perform these different functions.

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Inventions I and IV are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the phycobilisomes of Group I may be used to generate antibody or to provide immobilized reagent for study of biological light transfer. The method of Group V may be practiced without use of automated systems for signal input, processing or transfer .

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, as shown by their different classification, and because the literature search for Groups I-V would not be coextensive, restriction for examination purposes as indicated is proper.

3. Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Group 1645 Fax number is (703) 308-4242 which is able to receive transmissions 24 hours/day, 7 days/week.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Graser whose telephone number is (703) 308-1742. The examiner can normally be reached on Monday-Friday from 7:00 AM-4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith, can be reached on (703) 308-3909.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

  
JENNIFER E. GRASER  
PRIMARY EXAMINER  
3/21/07